

## Legal Services Corporation

## § 1638.4

AUTHORITY: Pub. L. 104-134, 110 Stat. 1321, 42 U.S.C. 2996g(e).

SOURCE: 61 FR 45755, Aug. 29, 1996, unless otherwise noted.

### § 1637.1 Purpose.

This part is intended to ensure that recipients do not participate in any litigation on behalf of persons incarcerated in Federal, State or local prisons.

### § 1637.2 Definitions.

(a) *Incarcerated* means the involuntary physical restraint, in a facility dedicated to such restraint, of a person who has been arrested for or convicted of a crime.

(b) *Federal, State or local prison* means any facility maintained under governmental authority for purposes of housing persons who are incarcerated.

### § 1637.3 Prohibition.

A recipient may not participate in any civil litigation on behalf of a person who is incarcerated in a Federal, State or local prison, whether as a plaintiff or as a defendant, nor may a recipient participate on behalf of such an incarcerated person in any administrative proceeding challenging the conditions of incarceration.

### § 1637.4 Change in circumstances.

If, to the knowledge of the recipient, a client becomes incarcerated after litigation has commenced, the recipient must use its best efforts to withdraw promptly from the litigation, unless the period of incarceration is anticipated to be brief and the litigation is likely to continue beyond the period of incarceration.

### § 1637.5 Recipient policies, procedures and recordkeeping.

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part and shall maintain records sufficient to document the recipient's compliance with this part.

## PART 1638—RESTRICTION ON SOLICITATION

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1638.4 Permissible activities.

1638.5 Recipient policies.

AUTHORITY: Sec. 504(a)(18), Pub. L. 104-134, 110 Stat. 1321.

SOURCE: 61 FR 45756, Aug. 29, 1996, unless otherwise noted.

### § 1638.1 Purpose.

This part is designed to ensure that recipients and their employees do not solicit clients.

### § 1638.2 Definitions.

(a) *In-person* means a face-to-face encounter or a personal encounter via other means of communication such as a personal letter or telephone call.

(b) *Unsolicited advice* means advice to obtain counsel or take legal action given by a recipient or its employee to an individual who did not seek the advice or with whom the recipient does not have an attorney-client relationship.

### § 1638.3 Prohibition.

(a) Recipients and their employees are prohibited from representing a client as a result of in-person unsolicited advice.

(b) Recipients and their employees are also prohibited from referring to other recipients individuals to whom they have given in-person unsolicited advice.

### § 1638.4 Permissible activities.

(a) This part does not prohibit recipients or their employees from providing information regarding legal rights and responsibilities or providing information regarding the recipient's services and intake procedures through community legal education activities such as outreach, public service announcements, maintaining an ongoing presence in a courthouse to provide advice at the invitation of the court, disseminating community legal education publications, and giving presentations to groups that request it.

(b) A recipient may represent an otherwise eligible individual seeking legal assistance from the recipient as a result of information provided as described in § 1638.4(a), provided that the

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request has not resulted from in-person unsolicited advice.

### § 1638.5 Recipient policies.

Each recipient shall adopt written policies to implement the requirements of this part.

## PART 1639—WELFARE REFORM

Sec.

1639.1 Purpose.

1639.2 Definitions.

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1639.4 Permissible representation of eligible clients.

1639.5 Exceptions for public rulemaking and responding to requests with non-LSC funds.

1639.6 Recipient policies and procedures.

AUTHORITY: Pub. L. 104-134, 110 Stat. 1321; 42 U.S.C. 2996g(e).

SOURCE: 61 FR 45759, Aug. 29, 1996, unless otherwise noted.

### § 1639.1 Purpose.

The purpose of this rule is to ensure that LSC recipients do not initiate litigation, challenge or participate in efforts to reform a Federal or State welfare system. The rule also clarifies when recipients may engage in representation on behalf of an individual client seeking specific relief from a welfare agency and under what circumstances recipients may use funds from sources other than the Corporation to comment on public rulemaking or respond to requests from legislative or administrative officials involving a reform of a Federal or State welfare system.

### § 1639.2 Definitions.

(a)(1) *Federal or State welfare system* as used in this Part means:

(i) The Federal and State AFDC program under Title IV-A of the Social Security Act and new programs or provisions enacted by Congress or the States to replace or modify these programs, including State AFDC programs conducted under Federal waiver authority.

(ii) General Assistance or similar state means-tested programs conducted by States or by counties with State funding or under State mandates, and new programs or provisions enacted by

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States to replace or modify these programs.

(2) *Federal or State welfare system* does not include other public benefit programs unless changes to such programs are part of a reform of the AFDC or General Assistance programs.

(b) *Reform* of Federal or State Welfare Systems as used in this Part means a legislative or administrative effort to change key components of the Federal or State welfare system, including laws and regulations that implement the changes.

(c) *Existing law* as used in this part means Federal, State or local statutory laws or ordinances.

### § 1639.3 Prohibition.

Except as provided in §§ 1639.4 and 1639.5, recipients may not initiate legal representation, challenge or participate in any other way in efforts to reform a Federal or State welfare system. Prohibited activities include participation in:

(a) Litigation challenging laws or regulations enacted as part of a reform of a Federal or State welfare system;

(b) Rulemaking involving proposals that are being considered to implement a reform of a Federal or State welfare system;

(c) Lobbying or other advocacy before legislative or administrative bodies undertaken directly or through grassroots efforts involving pending or proposed legislation that is part of a reform of a Federal or State welfare system; or

(d) Litigation or other advocacy undertaken with regard to the granting or denying of State requests for Federal waivers of Federal requirements for AFDC.

### § 1639.4 Permissible representation of eligible clients.

Recipients may represent an individual eligible client who is seeking specific relief from a welfare agency if such relief does not involve an effort to amend or otherwise challenge existing law in effect on the date of the initiation of the representation.